



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,360	11/08/2001	Ansgar Behler	C 2357 COGG	7887

23657 7590 05/24/2004

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,360

Applicant(s)

BEHLER ET AL.

Examiner

Brian P Mruk

Art Unit

1751

cd

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed March 1, 2004. Applicant has amended claims 15 and 20. Currently, claims 1-20 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 8.
3. The rejection of claim 15 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks.
4. The rejection of claims 1-20 under 35 U.S.C. 102(e) as being anticipated by Ansmann et al, U.S. Patent No. 6,235,702, is maintained for the reasons of record.
5. The rejection of claims 1-20 under 35 U.S.C. 102(b) as being anticipated by Ansmann et al, WO 97/46209, is maintained for the reasons of record.
6. The rejection of claims 1-20 under 35 U.S.C. 102(a) as being anticipated by Schmid et al, WO 01/21140, is withdrawn in view of applicant's remarks.

Art Unit: 1751

7. The rejection of claims 1-3, 5-7, 9-12, 14-15, 17-18 and 20 under 35

U.S.C. 102(b) as being anticipated by Pi Subirana et al, WO 97/46653, is maintained for the reasons of record.

8. The rejection of claims 1-20 under 35 U.S.C. 102(a) as being anticipated by Nalborczyk, EP 1,083,217, is withdrawn in view of applicant's remarks.

Response to Arguments

9. Applicant's arguments filed March 1, 2004 have been fully considered but they are not persuasive.

Applicant argues that Ansmann et al, U.S. Patent No. 6,235,702, and Ansmann et al, WO 97/46209, fail to teach a cleaning composition that specifically contains an alk(en)yl oligoglycoside as required in the instant claims. However, the examiner respectfully asserts that both Ansmann et al, U.S. Patent No. 6,235,702, and Ansmann et al, WO 97/46209, do indeed teach this limitation with sufficient specificity.

Specifically, Table 1, Examples R1-R4 of both Ansmann et al references exemplify compositions that contain cocoalkyl glucoside, per the requirements of the instant claims. Applicant further argues that the Ansmann et al references fail to teach or suggest in general the enhanced foam and skin properties required in the instant claims. However, the examiner respectfully asserts that applicant's recitation of "enhancing foam properties and skin compatibility" occurs in the preamble, and thus is not accorded any patentable weight, since the preamble does not breathe any life and

Art Unit: 1751

meaning into the claim. **See MPEP 2111.02.** Thus, the examiner respectfully asserts that the only method requirements in the instant claims is to combine the oligoglycoside and the hydroxycarboxylic acid partial ester, which is clearly taught by both Ansmann et al references. With respect to applicant's newly added limitation in instant claim 20, the examiner asserts that both Ansmann et al references teach, with sufficient specificity, compositions that contain hydroxy-functionalized carboxylic acids with fatty alcohols containing 6-22 carbon atoms, and alkyl oligoglycosides containing 8-22 carbon atoms (see Paragraph Nos. 7 and 8 in the last Office action, Paper No. 8), per the new requirement of instant claim 20.

Applicant argues that Pi Subirana et al, WO 97/46653, disclose compositions that contain different hydroxycarboxylic acid esters than those recited in the instant claims. Specifically, applicant argues that the hydroxycarboxylic acid esters disclosed in Pi Subirana et al contain 20-150 moles of ethylene oxide, which are outside of the scope of the hydroxycarboxylic acid esters recited in the instant specification on page 4, lines 1-27. However, the examiner asserts that the claims, as presently written, do not exclude hydroxycarboxylic acid esters that contain 20-150 moles of ethylene oxide, and thus, applicant is arguing limitations that do not appear in the instant claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1751

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Bm

Brian Mruk
May 19, 2004

Brian P. Mruk

Brian P. Mruk
Primary Examiner
Tech Center 1700